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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/484,159	01/18/2000	Gary M. Lewis	2386.1012000	9346
21005	7590	05/18/2004	EXAMINER	
HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			OPSASNICK, MICHAEL N	
		ART UNIT	PAPER NUMBER	
		2655	22	
DATE MAILED: 05/18/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/484,159	LEWIS, GARY M.	
	Examiner	Art Unit	
	Michael N. Opsasnick	2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 15 April 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paradine et al (6049565) in view of Sato et al (6078882).

As per claims 1,7,14,19,20, Paradine et al (6049565) teaches:

“transmitting audio over a network.....audio packets are stored in a jitter buffer.....jitter buffer latency.....modified during periods of quasi-silence....types of audio, non-speech audio or speech audio comprising” as audio communication coding detecting voice activity, and adjusting delays during silence (col. 2 line 30 – col. 3 line 15)

“a non-speech detection module....audio” as background noise or non-transmission detection (col. 3 lines 1-5)

“an add header.....data packet” as data packets (col. 7 lines 32-58) with headers (Fig. 6)

“a remove header routine.....enabled” as removing fixed delay’s and changing the delay based on a voice/speech determination or a noise determination (col. 8 line 33 – col. 9 line 17)

Paradine et al (6049565) does not explicitly teach the non-speech identifier being stored in the header of the data packet, however, Sato et al (6078882) teaches a non-speech identifier being stored in the header (abstract, Fig. 2, Fig. 3). Therefore, it would have been obvious to one of ordinary skill in the art of data structures to modify the teachings of Paradine et al (6049565) with non-speech identifier storage in a header because it would reduce the unnaturalness of the reconstructed speech caused by speech spurts and pauses (Sato et al (6078882), col. 1 lines 48-62).

As per claims 2,8,15, Paradine et al (6049565) teaches length count equal to zero, which can be represented by 1 bit (fig. 6, subblock 615, col. 8 lines 1-4))

As per claims 3,9,16, Paradine et al (6049565) teaches real time processing (col. 5 lines 45-65)

As per claims 4&5,10,11,17,18, Paradine et al (6049565) teaches identifying states based on speech or background noise (col. 2 lines 30-43)

As per claims 6,12,13, Paradine et al (6049565) teaches latency modification is not performed when there is no delay due to silent conditions (col. 5 lines 15-20, col. 9 line 45 – col. 10 line 20).

Response to Arguments

3. Applicant's arguments with respect to the claims are moot in view of the new grounds of rejection.

Conclusion

4. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231
or faxed to:
(703) 872 9314,
(for informal or draft communications, please label "PROPOSED" or "DRAFT")
Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (703)305-4089, who is available Tuesday-Thursday, 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To, can be reached at (703)305-4827. The facsimile phone number for this group is (703)872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (703) 305-4750, the 2600 Customer Service telephone number is (703) 306-0377.

mno
5/4/2004



DORIS H. TO
SUPERVISORY PATENT EXAMINER
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